Manitoba

Government of Manitoba

Discussion Paper III

The Canada/U.S. Trade Negotiations and their relation to Cultural Issues in Canada and Manitoba

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PREFACE

This is the third in a series of public discussion papers prepared by the Government of Manitoba in order to facilitate the Government's consultations with Manitobans on the question of Canada/U.S. trade negotiations. This is not a policy statement--it is part of a process of developing a policy on culture and trade negotiations in co-operation with interested members of the public. Thus, the views expressed herein do not necessarily reflect the views or policies of the Government of Manitoba.

The two earlier discussion papers dealt with the general economic impact of trade liberalization:

1. "Manitoba's Interest in and Attitude Towards a Proposed Canada-United States Free Trade Area"

2. "A Comprehensive Trade Agreement Between Canada and the United States: An Analysis of the Potential Economic Impact with Particular Reference to the Manufacturing Sector in Manitoba"

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1.0 INTRODUCTION

The Governments of Canada and the United States have initiated formal talks aimed at negotiating a comprehensive Bilateral Trade Agreement between the two nations. The preliminary, exploratory stage of the negotiations was completed at the end of September and formal bargaining began in November.

One important feature of the current Canada/US trade negotiations that makes them somewhat unique is that both sides have agreed, at least in a preliminary way, that the negotiations should extend beyond merely tariff-related trade matters to cover both services and so-called "non-tariff barriers". In the past most international trade agreements have been concerned almost exclusively with tariff barriers and goods.

This feature of the current Canada/US trade negotiations has important implications for the way in which cultural industries will have to be treated during the trade talks, and for the current debate over Canadian cultural sovereignty and its relation to a possible Canada/US trade agreement.

The Government of Manitoba has indicated that:

> There must be nothing in a Free Trade Agreement which threatens or weakens Canada's cultural endeavours. Cultural sovereignty is at the very heart of Canada's existence as a country. Through the development of cultural industries, our cultural sovereignty can be protected. The Manitoba Government takes the position that there must be nothing in bilateral trade negotiations which diminishes or threatens our ability to support and strengthen cultural industries in Canada through federal and provincial initiatives. It is, therefore, vital that these industries not only be excluded from any bilateral trade agreement, but be reinforced and Canadianized to allow for continued growth.

The federal government has consistently indicated that a Canada/US trade agreement must not diminish Canadian cultural sovereignty. In his statement in the House of Commons on September 26, 1985, which dealt with the Canada/U.S. Trade Negotiations, the Prime Minister indicated that Canada's unique cultural identity is not at issue during these negotiations.

The present concern of the Manitoba Government is this: given the comprehensive nature of the current trade negotiations and the proceedings of the negotiations to date, there exists a real possibility that cultural industries will be adversely affected by general trade provisions not directly aimed at them. Therefore, it may be necessary to include a careful and detailed review of cultural industries as part of the negotiations to ensure that our ability to support and strengthen Canada's cultural industries is not in any way restricted by a trade agreement. Compiling the information on the potential impact on these industries will require the input both of governments and the cultural community itself.

The general purpose of this paper is to inform and encourage further discussion in Manitoba and Canada on the issue of culture as it relates to the current Canada/US trade negotiations. More specifically, the purpose of this Discussion Paper is to:

- o provide information concerning the possible scope and current status of the negotiations with particular reference to cultural issues and to Manitoba's role and position;
- o elicit information, views and perceptions on Canada's and Manitoba's cultural sector which will give governments and trade negotiators a greater understanding of the sectors;
- o consult on ways and means to preserve and strengthen cultural industries in Manitoba and Canada in the context of a possible Canada/US trade agreement;
- o encourage input on the positions which will be taken on cultural issues by the Governments of Canada and Manitoba during the course of the bilateral trade negotiations.

2.0 BACKGROUND

2.1 Manitoba's Involvement in the Canada/U.S. Trade Discussions

The Manitoba Government recognizes the importance of trade to the Canadian economy and to Manitoba. On a per capita basis, Canadians are the largest traders in the world. Exports currently account for approximately 30 percent of our Gross National Product. In 1984, roughly half of Canada's GNP growth was due to exports.

In Manitoba, exports make a significant contribution to the diverse and dynamic character of the provincial economy. In total, exports account for approximately 10 percent of Manitoba's Gross Domestic Provincial Product. Furthermore, the Manitoba Government believes that exports have the potential to make an even greater contribution to the economies of both Manitoba and Canada.

However, for some time Manitoba has been concerned about mounting protectionism worldwide and the impact market restrictions will have on the economy of the Province and on employment opportunities for Manitobans.

The Manitoba Government has, therefore, consistently supported proposals that would secure and extend trade. This position was advanced at the Western Premiers' Conference in Kelowna in 1984, in Grande Prairie in 1985, and at the First Ministers' meeting in Regina in 1985.

In this context, Manitoba has endorsed an early start of a new round of Multilateral Trade Negotiations (MTN) and that approach to trade liberalization remains the Province's first priority. The start-up of the MTN in Uruguay in September 1986 should provide an important impetus for strengthening the world trading system which is a key ingredient for Canadian export success.

At the same time, Manitoba recognizes that we must devote particular attention to trade arrangements with the United States. Because of its size and proximity, the United States is by far the largest market for every Canadian province. Although Manitoba exports to markets in Europe, Latin America and the Pacific Rim, the U.S. market alone absorbs over 60 percent of our exports.

For that reason and given the opportunities which improved access to the U.S. market offers, Manitoba joined with other provinces in supporting a proposal to examine the benefits and disadvantages of a Canada/U.S. liberalized trade agreement.

Over the past year and a half, the Manitoba Government has been examining in some detail the potential implications and impacts of a bilateral trade agreement with the United States. Manitoba has looked at the issue from the perspective of Canada as a whole, but the particular concern has been the Manitoba perspective.

The research which has been undertaken includes a survey of nearly 400 of the largest manufacturers in the province. One of the major conclusions which has been reached as a result of this research effort is that there is some potential for real gains from a conditional Trade Agreement with the U.S., but the net benefits are not likely to be so large nor immediately evident as some have claimed.

The Manitoba Government has also initiated a consultation process both internally and with a variety of non-government groups in order to better assess the impact of trade liberalization. Within the Government, an inter-departmental working group has been established to coordinate research efforts as detailed sectoral issues arise in ongoing discussions on a bilateral trade agreement. Externally, since October 1985, the Minister of Industry, Trade and Technology, has undertaken consultative meetings with numerous labour, business and farm groups.

At the Federal/Provincial level, an extensive series of meetings have been held since the summer of 1985 to discuss Canada/U.S. Trade Negotiations. These have included several meetings of Deputy Ministers of Trade, meetings of Trade Ministers in October 1985 and February 1986, the First Ministers' Conference in November 1985, and meetings of the

Federal/Provincial Continuing Committee on Trade Negotiations (CCTN) on a regular monthly basis beginning in January of 1986.

On May 21, 1986 the Manitoba Government released a document entitled "Manitoba's Position on Canada's Objectives in Bilateral Trade Negotiations." The document represents Manitoba's latest official position on Canada/U.S. Trade Negotiations, and it has since been sent by the Premier to the Prime Minister and to other provinces, and has been tabled at the CCTN. As noted in the introduction, in reference to cultural industries, the document clearly states that "there must be nothing in a free trade agreement which threatens or weakens Canada's cultural endeavours."

The issue of provincial participation in the trade negotiations, a matter of prime importance to the cultural sector, has recently been somewhat clarified. At a special meeting of First Ministers on June 2, 1986 an interim arrangement was agreed to whereby the provinces would not be directly privy to the Canada/U.S. negotiation sessions. Rather, the Continuing Committee on Trade Negotiations (CCTN) would be the main mechanism for detailed provincial input and consultation on the negotiations. It was also agreed that the First Ministers would meet quarterly to review these arrangements and that "Designated Ministers" would meet with the lead Federal Minister between meetings of First Ministers.

On August 25, 1986 the appointment of Manitoba's Trade Representative to the Canada/U.S. Trade Negotiations was announced. The mandate of Manitoba's Trade Representative will be to ensure that the interests of the Province, including those of the cultural sector, are represented at the Trade Negotiations.

In general, Manitoba's position at this time is that it is too early either to accept or reject a trade deal with the U.S. We consider it <u>possible</u> that an agreement can be struck which will benefit Canada and take full account of our concerns with respect to sensitive areas such as culture. Therefore, we will continue to make a positive contribution to the process and attempt to help shape an agreement which can be supported by all Canadians, including those active in the cultural sector. However, there is no guarantee that a good agreement can be achieved, and Canada must be prepared to abandon the talks at some point rather than accept a bad deal. In the meantime, only by being active participants in the process can we in Manitoba know whether the negotiations are moving in the right direction or not.

2.2 A Definition of Culture, Cultural Industries and Cultural Sovereignty

At a very general level, "culture" is that which characterizes people and includes all aspects of life which combine to reflect our sense of identity with communities, provinces or nations. It is the right of a community or society to claim what is native to it, and to treat its originality as though it were irreplaceable - all of which makes for its particular enhancement (UNESCO, 1970).

From this general definition, it is possible to identify two more specific components of culture. The first component is a collection of artistic and historical treasures which together form the tangible aspects of a people's cultural heritage. Examples of this aspect of culture include objects, specimens, documents, buildings or land areas defined as antiquities or part of a nation's cultural property. Prior to the mid 1970's there were no national laws or legislation in place to regulate the export from Canada of its moveable heritage resources with the result that a significant proportion of what Canadians would now regard as part of their important and irreplaceable cultural property has been transported to foreign countries. Canada's Cultural Property Export and Import (C.P.E.I) Act of 1977 is designed to protect and retain within the country, cultural property which is deemed to be of a national importance. Given that the United States is a major importer of foreign arts, or cultural artifacts being exported (both legally and illegally) from Canada, it is possible that cultural property legislation might arise as an issue in the Canada/US trade talks.

A second component of culture involves creative ideas and activities through which communities and nations express, preserve and enhance values and beliefs that are unique to them. The production and distribution of products of the creative aspirations and capacities latent in people constitute cultural industries and enterprises. Examples of this aspect of culture include book publishing, film and video, sound recording, fine arts, and individual talents and skills. This component or aspect of culture is affected by foreign investments and control, as they are by nature subject to vigorous trade transactions taking place within and between countries. The ability of a nation (e.g. Canada) to have reasonable control over its cultural activities, and hence to assure sustained expression of its cultural identity, is what is meant by cultural sovereignty.

2.3 Cultural Issues in the Context of the Canada/US Trade Discussions

Unlike the situation in Canada, cultural sovereignty is not an issue of great importance to the United States in the current Bilateral Trade Negotiations. Indeed, not only does the United States not perceive a threat to their cultural sovereignty, they have difficulty understanding the issue at all.

This is partly because the two countries are at quite different stages in their cultural development. As Michael Bergman (1985) explains:

> Canada is a much younger country than the U.S. Its historical and cultural development has yet to reach a peak. (Canada is)....still confronting and dealing with societal problems the Americans resolved a century ago - issues of national unity....and the links in the bonds which can cement the ties between all Canadians.

To Canadians, American pressure on Canadian cultural sovereignty seems obvious. As Garth H. Drabinsky (1986) observes:

> Through the medium of motion pictures and television series, American values, heroes, and institutions have become familiar to the entire world....nowhere more so than in Canada. Its proximity to the United States, when coupled with today's technology, results in Canada's being barraged, not to say inundated, by all pervasive signals proclaiming the cultural themes of America....(The) effect is profound and threatens complete erosion of Canada's national identity....

Americans have no comparable sense of any outside pressure on their culture or identity. U.S. enterprises in the U.S. cultural sector have reached a high level of sophistication and economic maturity. Cultural industries in the United States, and the unique cultural values expressed by them, will not be displaced by U.S. trading partners with or without a trade agreement. But quite apart from this, Americans have little or no awareness of the contribution which U.S. cultural industries make and have made to the distinct sense which Americans have of themselves as a nation. What Canadians, and others, see as "American culture", Americans tend to regard as a natural and universal expression of values. What we might regard as a contribution to Canadian culture, they tend to see as merely "entertainment" provided by a Canadian company. There is a tendency for the United States to present their cultural values as the "norm" for these countries to which it sells its products. Michael Bergman (1985) has observed:

> Even without being conscious of it, the Americans (as so many of the great powers in history be it Rome, Britain, or Russia) believe their culture and way of life is the expression of the ultimate good and liberty of man. There is a natural assertive and aggressive quality to this: the expectation that all other nations want to emulate it and take up the call. Free Trade, by reducing barriers between nations would be an opportunity for the Americans to assert this natural inclination with even greater vigour.

One of the main economic arguments for reduction of trade barriers affecting non-cultural industries centers around the question of achieving "economies of scale" by gaining access to the large American market. Presently, a number of Canadian industries (including Canadian cultural industries) operate with high average costs per unit of output compared to U.S. industries. The high fixed costs associated with these industries (including publishing, broadcasting, recording, and film making), and the low cost of incremental output, mean that the greater the number of consumers, the lower the unit cost and the lower the price which can be charged.

As market size increases, the argument goes, the cost per unit of output decreases (and the necessity for subsidies diminishes). Consumers can gain from these cost reductions through reduced prices and possibly by a reduced tax burden.

While this argument may be valid for some non-cultural industries, there are at least two reasons that are commonly advanced why it should not be applied in the case of Canadian cultural industries.

First, the present structure of the American and Canadian cultural industries makes it highly unlikely that Canadian firms could survive if existing tariff and non-tariff barriers, including government subsidies, were removed. The American industry is dominated by multinational manufacturing conglomerates which are horizontally as well as vertically integrated, and already have the fixed capital necessary to exploit economies of scale. As well they have access to high level technologies, internal financing, internal sourcing of materials and a sophisticated network of distribution and marketing agencies. Even with significant government support, it is highly doubtful that any Canadian firm could compete with these firms in the U.S. cultural market in order to realize economies of scale. In manufacturing, some firms in this situation can adopt a "niche" strategy: they can try to specialize in a specific market component. In the cultural industries, however, such niche market opportunities are far less common.

The second reason why the economies of scale argument may not apply to cultural industries has to do with the nature of the product itself. Books, films, broadcasts, and recordings with a specifically Canadian content by their very nature only have a significant market in Canada. Because the Canadian market is so small in comparison with the U.S. market, these products would be unsuitable for the North American market as a whole. Canadian firms cannot therefore achieve economies of scale in the production of Canadian cultural productions or publications even if they were in a position to access the American market. If such products were to be produced, they would either be much more expensive than products with mass appeal, or they would have to be subsidized.

Thus one could end up with a situation where Canadian companies would have considerable difficulty becoming competitive with U.S. companies in these cultural industries, and where, at the same time, products which appeal to the limited Canadian market because of their Canadian content will, for economic reasons, not be produced by the multinational firms that end up servicing the North American cultural market.

On the matter of cultural industries, therefore, it would appear that Canadians have a distinct choice to make. They can take steps to protect their cultural industries from the effects of international trade, and thus continue to subsidize the industries and accept the higher cost of these products and services. Alternatively, they can sacrifice Canadian cultural content for lower cost American-dominated films, books, broadcasts and recordings. This is not a question that can be settled on economic grounds. It is necessary to assess the value that Canadians as a whole place on a distinct national culture and on distinct cultural products in Canada.

When one considers these factors in combination (i.e. the infant stage of Canadian-controlled cultural industries; unfavourable economies of scale leading to higher costs of Canadian cultural products compared with competing foreign products; the consequent vulnerability of Canadian cultural industries), one is in a position to understand the history of government intervention in Canada in support of cultural industries. A long succession of governments in Canada have intervened to nurture and ensure the survival of Canadian cultural industries, hoping thereby to preserve and foster the development of a distinct Canadian cultural identity.

In Canada, governments have supported and continue to support cultural industries directly or indirectly through a wide variety of mechanisms and instruments. The list includes grants, subsidies, special tax measures (e.g. the tax deduction that favours advertising in Canadian magazines), legislation, and regulations (e.g. Canadian content

regulations for television and radio). A recent comparative international study of public and private arts support (1985) shows that arts industries in the United States depend on government support for about 5% of their total income, on average. In contrast, Canadian arts enterprises derive over 50% of their total income from government sources.

There is concern within Canada that the subsidies and regulatory or legislative protections that the Canadian cultural sector enjoys will be construed as "non-tariff barriers" that might be sacrificed or bargained away in a trade agreement between Canada and the U.S. A matter of equal concern, that has received less attention, is the possiblity that mechanisms and instruments targeted at fostering cultural development might be restricted, perhaps inadvertently, by general provisions in a trade agreement aimed at non-tariff barriers in general.

There can be little doubt that the removal of such "cultural non-tariff barriers", or restrictions on their use, would severely limit Canada's ability to nurture the creation, production and distribution of distinctly Canadian cultural products.

3.0 SECTOR BRIEFING

3.1 Publishing

3.1.1 Structure

At the national level, there are about 256 publishers and exclusive agents in Canada, of which 43 (18.22%) are foreign-controlled. The United States controls over 80% of the $1.25 billion Canadian book industry.

Approximately 25% of domestic book sales are Canadian published titles, while 75% are imported titles. Almost 2/3 of the money spent on books in Canada is spent on imported books, or Canadian reprints of books written by non-Canadians. The textbook market represents $300 million yearly sales. The sales are divided fairly evenly among Canadian-controlled publishers, foreign-controlled publishers in Canada, and direct imports. Nevertheless, the one-third of the textbook market controlled by the Canadian-controlled publishers is a result of public policies. For example, over 50% of this one-third share is the result of purchases by provincial governments. The vast majority of Canadian content in book publishing comes from Canadian-owned firms.

There are a number of indicators of the overall performance of the book publishing industry in Canada. For example,

total book sales in Canada have increased from a low of about $500 million in 1973 to $1.23 billion in 1983. However, only $309 million of the 1983 total revenue came from the sale of titles that originated in and were published in Canada. The remainder came from sales of imports by Canadian-based publishers ($244 million), by exclusive agents for foreign-based publishers ($106 million) or by other importers such as book clubs ($585 million) [Statistics Canada, 1986, p. 17].

A recent Manitoba study (Siegler, 1984) shows that there are thirteen Manitoba-owned and operated book publishing companies. The study concludes that the Manitoba book publishing industry reflects a tendency towards strong commitment to Manitoban and Canadian authorship. Of the book publishers surveyed (11 of the 13), the industry derived 90.7% of all sales ($339,512) from the sale of its own books or titles. Manitoba buyers accounted for nearly half of all sales. Other Canadian buyers represented 41.6% of sales, while foreign buyers accounted for 11.6% of sales.

The Manitoba publishing industry derived 64.0% of its income from private sector markets, 20.5% from public sector markets, and 15.5% from special sales. However, in terms of total revenues the industry on average depends on Government subsidies for nearly 25% of its income.

About 2/3 of cultural periodical sales were made in Canada, outside Manitoba; 27.1% within Manitoba; 8.1% in foreign markets. Eleven out of the thirteen Manitoba publishers surveyed had total production expenditures of $343,771 for 1982. Approximately 98.4% (of $48,863) of the total out-of-house production expenditures by the publishers was made in the province of Manitoba.

In terms of employment, book publishers surveyed provided direct in-house employment for an average of 21.9 person years, of which 15.18 were paid.

3.1.2 Implications of Canada-U.S. Trade Liberalization for the Canadian Book Publishing Industry

In June, 1986, the Government of Canada imposed a 10 percent tariff on most English language books imported into Canada in response to an American tariff against Canadian cedar shakes and shingles. Previously, there were no tariffs or taxes imposed on transactions between the U.S. and Canada which involved books. Thus one aspect of the Canada/U.S.trade negotiations will have no foreseen negative bearing on the Canadian book publishing industry, as the removal of this tariff would be a return to the status quo.

However, given the structure of this industry, Canadians will be placed at a considerable disadvantage if existing subsidies, grants, and "Canadian Content" regulations are bargained away. Potential growth and the employment which accompanies this growth might be lost, and Canadians could experience increased foreign control of this industry, as Canadian-owned firms incapable of competing go bankrupt or are purchased by American multinationals.

Within the publishing industry in Canada, the impacts of trade liberalization would probably be felt most by magazine publishers. As CIRPA (1986) explains:

> Only about 25% of magazines on newsstands in Canada are actually Canadian. That there are even that many is due to protective measures such as Bill C-58, which disallows the deductions of advertising costs in foreign magazines, grants a postal subsidy for magazines mailed to subscribers and an exemption from federal sales tax.
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> If Bill C-58, for example, is lost advertisers will no longer have to find a Canadian magazine (75% Canadian-controlled, 80% Canadian content) to advertise in to get a tax break. The shift in revenue away from Canadian publications could well mean their demise.

A similar outcome could be expected for textbooks in Canada. Given that the vast majority of Canadian content in book publishing comes from domestic or Canadian-owned firms, further increases in foreign dominance of the Canadian book market could seriously decrease the amount of Canadian content. If the textbook market drifts further into foreign hands, this will affect what will be taught to future generations of young Canadians.

As this profile of the book publishing industry in Manitoba suggests, the elimination of government grants, subsidies, and regulations could seriously undermine this sector of Canadian cultural industries. Manitoba publishing companies are typically small, severely undercapitalized, and disadvantaged in relation to their larger well established competitors in Ontario and Quebec. Should their market share be cut back by non-tariff aspects of trade liberalization, it is likely that Manitoba publishing companies would be most seriously affected. At best, they will be unable to maintain their presently strong commitment to Manitoban and Canadian authors. The eventual result would be a serious erosion of Canada's cultural identity.

3.2 Film and Video

3.2.1 Structure and the Implications of Canada/U.S. Trade Liberalization

According to the most recent data available, there are 115

film and video distribution companies in Canada (Statistics Canada, 1983). Of these, 95 or 83% are Canadian-controlled firms. However, as in book publishing, a small number of foreign companies virtually control the market. For instance, in 1982 the 20 foreign film and video firms in Canada, most of which are American, received 73% of total gross operating revenues estimated at $288 million. The 95 Canadian-controlled firms on the other hand, together claimed a mere 27% of total revenues.

Canadian firms are small or medium sized at best, whereas the U.S. companies in Canada are large and highly integrated, both vertically and horizontally. In fact, American film producers consider Canada part of their domestic territory and have virtually no interest in reinvesting the huge revenues earned in the Canadian market into indigenous film-making.

While foreign distributors earn over 70% of film and video revenues in Canada, they distribute just 3% of Canadian content. In both Canadian and foreign-controlled film and video companies, Canadian products are poorly represented. For instance, in 1983 Canadian film and video products represented only about 20% of total revenue received by Canadian-controlled firms, and less than 1% of revenues received by foreign-controlled film and video companies. In television, 72% of all available English language programming is foreign, as is 98% of all English drama.

Foreign firms in the film and video industry in Canada enjoy a wide range of advantages over their Canadian-controlled competitors. These include economies of scale, greater access to capital, high level technologies developed and tested in the international market, and vertical and horizontal integration. Government grants, subsidies, and regulations are mechanisms by which Canadians attempt to ward off complete foreign-control of their film and video industry. The non-tariff measures include, among others, subsidies and tax breaks to Canadian film makers, as well as legislative and regulatory measures to ensure that the distribution of film and video production in all of Canada be carried out by companies owned and controlled by Canadians. Equally important for the film and video industry are the non-tariff measures proposed by the national task force on film to Canadianize the film distribution system in the country.

In Manitoba there are 7 principal groups involved in film and video production, including CBC, private television, the cable companies, the Government of Manitoba (which contracts to independent producers), the National Film Board, the Winnipeg Film Group, and independent producers (Paul Audley and Associates, 1984). Financing comes from both public and

private sectors, with significant co-production occurring. The Manitoba film and video industry probably could not survive under a trade agreement which eliminates subsidies, grants and regulatory protection policies. Of particular significance is the Manitoba Government's equity investment program in film and video production. This is the mechanism by which the government matches funds for projects which are of substantial social and cultural value but which involve considerable commercial risks. Programs such as these are important instruments for preserving and extending Canada's cultural identity.

3.3 Sound Recording

3.3.1 Structure, and Implications of Trade Liberalization

As in the publishing, film and video industries, the sound recording industry in Canada consists of a majority of Canadian-controlled firms, with its domestic market dominated by a few foreign-controlled companies. The available data indicates that of the 118 sound recording firms in Canada in 1982, 109 or 92% were Canadian-controlled firms, and 9 or 8% were foreign-controlled. Yet these foreign firms controlled 72% of total revenues of this industry estimated at approximately $326 million (12 Canadian firms did not report earnings) (Statistics Canada, 1982). Of industry assets totalling $218 million in 1982, 77% were held by the 9 foreign-controlled firms. At present, Canadians spend over $600 million a year on records and tapes, of which almost 90% involves non-Canadian content (CIRPA, 1986).

The recording industry in Manitoba forms a very small proportion of the national industry, and statistics are scarce. Preliminary data provided by Manitoba Culture, Heritage and Recreation in 1984 showed six recording companies operating in Manitoba, most of which were in a precarious financial situation. The largest of these companies was K-Tel, a Winnipeg-based international record company which has since declared bankruptcy.

Unlike the publishing and film and video industries, Canada's recording industry is protected by both tariff and non-tariff measures. There is currently a 14.5% tariff on imported recordings, prerecorded and blank tapes, and masters. As CIRPA (1986) explains:

> Without this tariff, major recording companies might replace their A & R (Artist and Repertoire), marketing and distribution facilities in Canada with American branch offices. This would make it difficult to sign Canadian artists; Canadian content would suffer even more because multinational labels would have less incentive to reinvest their share back into developing Canadian talent.

Also potentially at risk are the 30% Canadian content regulation for radio and the recently-promised grants of $5 million a year to support the production and marketing aspects of the recording industry in Canada. Once again, the removal of such non-tariff barriers under a trade agreement could ultimately undermine Canadian cultural sovereignty.

3.4 Broadcasting

3.4.1 Background

In television broadcasting, there were approximately 52,000 hours of English language television programming available in Canada in 1984. About 47 percent of all such programming was offered by the U.S. Stations. Of the remaining 53 percent accounted for by the Canadian stations, only a small proportion is Canadian programming. Furthermore, of the 17,600 hours of drama programming available on English language television in 1984, only 2 percent was Canadian and the remaining 98 percent foreign - predominantly American. Of the 6,300 hours of French language drama programming available, only 10 percent was Canadian. In 1985, about the same number of Canadian households had televisions (98.4%) as had telephones (98.2%) [Statistics Canada, 1986].

The overall revenue of the electronic media in Canada is substantial. For example, the private radio industry in Canada had revenues of $599 million in the year ending August 31, 1984. The private television industry had revenues of $900 million. The net operating expenditure of the Canadian Broadcasting Corporation was $935 million in the same year with revenues of $161 million (Statistics Canada, 1986).

With specific reference to Manitoba, private radio and television play a significant role in the economy of the province. In 1984, the assets of private broadcasting in Manitoba totalled about $117 million (Statistics Canada, 1984). The 474 people employed in radio, combined with the 306 employed in television received pay and benefits of about $21 million in 1984 (Statistics Canada, 1984). The above figures do not include CBC Manitoba, which in 1986 has a combined radio and television staff of approximately 460, with estimated total salaries of $12.5 million.

There has been significant penetration of the cable television market in Canada. In 1985, 62% of Canadian households subscribed to cable, with regional penetration varying from under 45% in Newfoundland, Prince Edward Island and Saskatchewan to over 80% in British Columbia. Ontario, Alberta and Manitoba occupied the middle ground with 68%, 63% and 62% respectively of their households subscribing (Statistics Canada, 1986). Revenue associated with cable television is equally significant. For instance, the 5.3 million cable subscribers in Canada in March 1984 paid an average of $10 per month for this service. Half of Canada's cable subscribers also have converter capability.

Cable provides Manitobans with local television signals as well as a number of Canadian and U.S. distant signals. In Manitoba, Manitoba cable operators will bill their subscribers in excess of $23,000,000 for services provided (Manitoba Telephone System, 1986). Most communities receive at minimum, the four U.S. networks, and many receive other U.S. and Canadian "independents". As well, most systems provide a range of Canadian and U.S. pay/specialty services. Although the owners of many U.S. services feel that any retransmission of their signals should be subject to copyright payments, Canadian cable operators do not pay such fees. Some U.S. broadcasters view this as a form of piracy, as U.S. cable companies pay retransmission fees for distant signals.

A more recent addition to the Canadian cable television scene is pay television (i.e., extra channels which are obtainable only upon payment of additional fees). In 1985, 812,419 Canadian households subscribed to pay television or discretionary services, increasing the penetration rate to nearly 15% (Canadian Cable Television Association, 1985). Each subscriber pays an additional fee varying from $8 to $20 per month which may transform to a total monthly revenue ranging from $6,499,352 to $16,248,380. In Manitoba, there were 11,685 households connected to discretionary services as of October 31, 1985 representing a penetration rate of 5.2% (far below the national average penetration rate). Many additional channels are available with satellite transmission reception equipment. The price of home reception equipment now starts at about $1,000 for the simplest system, to many thousands of dollars for the most sophisticated (Statistics Canada, 1986).

While cable and satellite transmissions hold promise for many innovative broadcasting services, serious questions have been raised concerning the cultural influence of so much programming imported from or through the United States. Current Canadian Radio - Television and Telecommunications Commission (CRTC) regulations impose limits on non-Canadian programming during the prime viewing hours in the evening. Nevertheless, these quotas differ depending on the ownership of stations or networks, and are additionally qualified by particular concessions that, for instance, give Canadian status to official co-productions and partial recognition to certain material dubbed in Canada.

3.4.2 Implications of Canada - U.S. Trade Liberalization

CABLE TELEVISION:

Ownership - In Canada, cable is considered to be a form of broadcasting and therefore subject to the same ownership rules as radio and television. Only Canadians may own cable

systems in this country. In the U.S. however, cable is viewed more as a local business and there is no limit to foreign ownership. In fact, Canadian cable operators such as Moffat Communications and Rogers Cable have significant cable holdings in U.S locations. The inability of U.S. citizens to own Canadian cable systems may arise as an issue in the trade negotiations between Canada and United States.

Retransmission Rights - While Canadian cable operators negotiate affiliation agreements with U.S. providers of specialty services and pay for the receipt of these services, they have no similar agreements with the broadcast stations affiliated with the four U.S. networks. The position of the Canadian providers of U.S. network signals is that these signals are available off-air in Canada, and that in any event, Canadian rights to most of these programs are being paid for by Canadian broadcasters.

This is not an issue that has arisen solely in the context of the current Bilateral Trade Negotiations. Copyright negotiations on this issue are also being carried out separately. If the Canadian industry position does not stand up, all cable subscribers in Canada will likely be required to pay higher subscription fees in order to compensate the U.S. providers of these programs, regardless of the outcome of the comprehensive bilateral trade talks.

RADIO:

Ownership - Both the U.S. and Canada have strict regulations regarding the ownership of broadcasting outlets. In fact, U.S. requirements are stronger than their Canadian counterparts. While both countries require that owners of broadcasting undertakings must be citizens of their respective nations, the Americans place a formal limit on the number of broadcasting units a single owner may hold. It is unlikely that U.S. broadcasters, mindful of the strong anti-trust legislation in that country, would push for changes in this area.

Content - Canadian regulations require that broadcasters adhere to minimum Canadian content requirements. In the case of television, sixty percent of programming must be Canadian. In radio, the requirement is thirty percent. There is a strong difference in U.S. and Canadian philosophy on content: Canadians consider content requirements as a necessary method of protecting the country's culture. Americans view content requirements as content restrictions, and an affront to the First Amendment of their Constitution. Acceptance of the American point of view would drastically change the nature and intent of the Canadian broadcasting system. If the issue arises, Canada would have to present a strong statement that there are fundamental and valid differences between the two systems.

Networking - Canadian regulations place severe restrictions on radio networking. Even temporary hookups of stations wishing to simulcast one-time only events such as fund-raising telethons require CRTC approval. The only full radio networks in Canada are those operated by the CBC. Recently, developments in satellite technology have made it economically feasible for even the smallest radio station to receive high quality programming at little or no cost. However, offering this programming via satellite would allow broadcasters to become part of a de facto network and thus is covered by the regulations governing networking.

If satellite programming were to be made widely available, it would likely be very attractive to small Canadian broadcasters. Programs containing pre-sold advertising as well as a number of empty advertising slots for use of the recipient broadcaster, are often offered free of charge with the broadcaster being allowed to keep the revenue from any local advertising insertions. This allows a small broadcaster to fill programming time at a profit with a minimum of staff. In Manitoba, a small market station such as CFAM Altona, which produces most of its own programming, would have to bill one million dollars in advertising in order to realize earnings of two hundred and fifty thousand dollars. By comparison, a similar station operating in North Dakota and relying on satellite programming would have to bill only $600,000 in order to realize the same earnings.

Stations operating in large urban markets would be less likely to take advantage of such pre-packaged programming and would therefore retain whatever local and Canadian flavour they presently have. Small stations, however, run the risk of becoming part of a homogenized North American sound with little local identity and, because most of the satellite services originate in the U.S., little Canadian content.

TELEVISION:

Bill C58 - Both television and radio are affected by Bill C58, however by far the strongest irritants exist with television. This federal legislation was proclaimed in the early 1970's in order to protect the Canadian broadcasting and publishing industries from an outflow of advertising dollars to the U.S.

The legislation, while allowing Canadian advertisers to continue advertising in American media outlets, prohibits tax deductions for such activities. This is a particular sore point with U.S. border television broadcasters who rely to a great extent on Canadian advertising dollars. In some cases, border stations exist almost solely to derive revenue from Canadian sources. Such was the case with CKND TV Pembina North Dakota, which, while located in a village of six hundred persons beamed directly into southern Manitoba and Winnipeg - a market of 700,000 viewers. Recently, KNRR TV

has been operating from the same location with similar intent. Lobbying by American border broadcasters has already resulted in indirect retaliation by the U.S. government in its refusal to allow its citizens to deduct expenses for conventions held in Canada. The Canadian Association of Broadcasters, which is in favour of maintaining this legislation, realizes this is a very contentious issue in Canada/US relations.

Simultaneous Substitution - Canadian broadcasters who own rights for programs in their markets may, according to CRTC regulations, require local cable companies to substitute their programs and advertising for similar programs provided by distant stations. In theory, simultaneous substitution applies to both Canadian and U.S. distant signals. In practice however, the vast majority of substitutions occur with programs originating from U.S stations. Americans view this as a form of piracy. Canadian operators defend this practice by saying that distant stations have no inherent right to display their programming where there already is a local rights holder. This could be an issue in the Canada/US trade talks.

4.0 OTHER CULTURAL ISSUES

4.1 Heritage Resources - Cultural Property Export and Import Act

4.1.1 Background

Heritage resources are objects, specimens, documents, buildings or land areas that represent artistic and historical treasures which together form part of a nation's cultural heritage. Heritage resources are cultural artifacts that are so important, varied and/or original, that they are considered to be irreplaceable. This is the basis for strong public concern for the preservation and protection of heritage objects.

A large number of nations, in the early 20th century, enacted laws or legislation designed to protect their cultural property and to control both illicit and unrestricted export of such property (Duncan Cameron, 1980). While individual nations sought measures to protect and retain their cultural property, the United Nations Educational, Scientific and Cultural Organization (UNESCO) added a new international dimension to such efforts. For instance, UNESCO recognized the need for international agreements to protect national heritage and, in 1970, adopted the "convention on the means of prohibiting and preventing the illicit Import, Export and Transfer of ownership of cultural property" (Duncan Cameron, 1980). Canada formally declared its intent to become a signatory to the 1970 Unesco convention in the fall of 1974, and was one of the last countries among some 30 nations to become signatories to the convention in that period.

There are currently about 58 signatory countries to the 1970 UNESCO convention (Bulletin of the Society of American Archaeology, 1986). The UNESCO convention requires that each participant country have, either in place or in the developmental stages, legislation to control the illicit import/export of antiquities that are considered part of a nation's cultural property. Canada's Bill C-33, tabled in the House of Commons in the fall of 1974, appears to be a direct response to its being a signatory to the 1970 UNESCO convention.

The Bill became an Act in 1977, and has been called the Cultural Property Export and Import (C.P.E.I) Act ever since. The intent or objective of the C.P.E.I. Act has been to regulate the export from Canada of cultural property which is deemed to be of national importance; the import into Canada of cultural property illegally exported from foreign states; the return of illegally imported cultural property into Canada to its rightful owners in cases where the foreign state concerned has signed a bilateral or multilateral cultural property agreement with Canada.

The Act sets forth a procedure for controlling the export of moveable cultural property from Canada, and is based upon the principle that the State retains the right to prevent or control the export of heritage objects which are considered to be of national importance to Canada.

The Act operates in the following manner:

a) an object must be on the control list to require an export permit, and it is the Permit Officer who determines this fact.

b) The Expert Examiner evaluates the object against significance criteria and either approves the export permit, or denies the exportation of the object.

c) The applicant may appeal a denial to the Review Board.

d) Unless a fair cash offer to purchase is forthcoming during the delay period, the Review Board must, upon request of the applicant, grant an export permit.

At the provincial level, there are laws and legislation to parallel the national cultural property legislation. Manitoba, for instance, has the Heritage Resources Act, which is intended to protect and retain heritage resources within the province. Under Section 45 of the Act, the Crown retains the right to ownership and possession of any heritage objects found by any person within the province after May 3, 1967. Section 47 states the "Minister may acquire, for and on behalf of the crown, by gift, bequest, lease, loan or otherwise, any heritage object that is private property or municipal property"; and section 52 stipulates that removal of heritage objects from the province must be pursuant to a heritage permit.

By comparison to Canada, the U.S. has what is called the Cultural Property Act, the primary objective of which is "to curb international trade in stolen art and looted artifacts" (Bulletin of the Society for American Archaelogy, 1986). In addition, the Act through the Cultural Property Advisory Committee provides a mechanism for reviewing requests from other countries for U.S. import controls on endangered artifacts that are considered part of a nation's cultural heritage. For example, in response to the October 2, 1985 request by the Government of Canada for U.S. import restrictions on endangered Indian and Inuit artifacts, the U.S. government under its Cultural Property Act has issued regulations for the enforcement of such controls, which went into effect on March 31, 1986. Aside from these arrangements, there is no evidence to date of a bilateral agreement relating to the import/export of cultural property between Canada and the U.S. However, negotiations are currently in progress for a bilateral agreement that would make it illegal to import Canadian artifacts into the United States without prior approval from the Government of Canada, and to protect American artifacts from similar sale in Canada, although the latter rarely occurs (Museogramme, December 1985/January 1986; Williams Lowther, 1985). Given that the United States is a major art importing nation, and perhaps the destination of a significant proportion of cultural property exports (including illicit exports) from Canada, it is possible that cultural property legislation will arise at some point as an issue in the Canada/US trade negotiations.

4.1.2 Implications of Canada - U.S. Trade Liberalization

There appears to be a strong difference in the intent or objective of U.S. and Canadian cultural property legislation. While Canadian cultural property legislation, the C.P.E.I. Act, can be seen as a means of preserving such cultural objects in Canada, the American counterpart, or Cultural Property Act, appears to focus on measures to respond to specific types of irregularities, and to import control requests arising from international trade in cultural objects. In fact, the Canadian cultural property legislation could be construed as a greater barrier to free trade in cultural artifacts than its U.S. counterpart. Given such circumstances, Americans may view the Canadian Property Export and Import Act as a restrictive law that unduely interferes with international trade in cultural artifacts or objects, and may push for changes in this area.

Acceptance of any pressure to liberalize the existing Cultural Property Export and Import Act is likely to have drastic effects on the ability to retain in Canada those things Canadians deem important to their national heritage. Where appropriate or practical, Canada may seek opportunities in the trade talks with the U.S. to secure a bilateral agreement between the two nations as a means to control or prevent illicit import/export of cultural property.

4.2 The 10% Duty on English Language Books

As previously mentioned, in June of 1986 the Federal Government of Canada imposed a 10% tariff on books imported into Canada (with the exception of French language books and direct purchases by libraries) in retaliation for the American 35% tariff against Canadian cedar shakes and shingles.

The Association of Canadian Publishers (ACP, 1986) notes that:

> More often than not when Canadian rights are acquired by Canadian publishers to foreign authored titles these books are printed in the country of origin to allow the Canadian company to benefit from economies of scale. These books which have both Canadian copyright and a Canadian imprint are now subject to the tariff at the border. Also, many Canadian books are printed offshore for technical or economic reasons and are similarly subject to the tariff which lowers the profit margins of Canadian-owned publishing companies.

It is estimated that total direct losses to Canadian book publishers in one year as a result of the duty will be over $10 million (ACP, 1986). Indirect economic losses to be associated with this will be equally significant. This suggests that bilateral trade liberalization which involves simply the elimination of tariff barriers may benefit some part of the Canadian cultural sector.

4.3 Fee For Processing Entertainers' Temporary Work Permits

Concerns have been raised in the context of the Canada/US trade discussions relating to immigration laws and regulations concerning temporary work permits. In 1984, according to figures compiled by Employment and Immigration Canada (CEIC) on the total temporary and short term employment authorizations issued by CEIC to artistic, literary and performing arts occupations, 31,618 foreign cultural workers entered Canada. Of these 87% came from the United States. Musicians made up the largest proportion of all the incoming cultural workers (74%) and of those that came from the United States (75%).

Since 1985, CEIC has exercised tighter controls over the issuance of permits to foreign workers, particularly musicians. For instance, on February 3, 1986, the Canadian Department of Employment and Immigration instituted a $50 Canadian charge for the cost of processing each individual entertainer's work permit (except those in groups of 15 or more). Such policies restrain the flow of artistic skills between Canada and the U.S.

5.0 CONCLUSION

From the outset of the public debate on the issue, the Manitoba Government has taken the position that there must be nothing in any bilateral trade agreement which diminishes or threatens our ability to support and strengthen cultural industries in Canada through federal and provincial initiatives.

The federal government has consistently indicated that a Canada/US trade agreement must not diminish Canadian cultural sovereignty. In his statement in the House of Commons on September 26, 1985, the Prime Minister indicated that Canada's unique cultural identity is not at issue during these negotiations.

However, in order to effectively preserve and strengthen Canadian cultural sovereignty and identity, it may well be necessary for the Manitoba Government and the Government of Canada to go a number of steps beyond merely "keeping culture off the table". More precisely, the need now is to ensure that we "keep culture from being adversely impacted by any trade agreement". Given the comprehensive nature of the present Canada/US trade negotiations, it is possible that cultural industries could be adversely affected by general provisions not directly aimed at them. It may, therefore, be necessary to include a careful and detailed review of cultural industries as part of the negotiations, and to enunciate specific provisions for exclusion of cultural-related issues, if for no other reason than to ensure that Canada's right to preserve and promote Canadian culture through our cultural industries is explicitly protected and is not inadvertently restricted by general components that might be included in a Canada/US trade agreement.

Arising from the discussion and views in this paper, there are a number of issues on which the Government of Manitoba would like further opinion and comments. These issues include the following:

(a) A thorough understanding of the cultural and heritage sectors in Manitoba and Canada will be necessary if our cultural industries are not to be adversely affected by provisions in any Canada/U.S. Trade Agreement. Of equal importance is an appreciation of the potential impact of various provisions that might be included in any such agreement.

Is the characterization of these industries and issues outlined in this Discussion Paper (see Sections 3 and 4) adequate? Are there important details or impacts not included here that should be taken into account?

(b) A clear definition of what is meant by "cultural sovereignty" in Canada and by "cultural and heritage industries and sectors" may be useful as the negotiations proceed.

Is the discussion of definition in this paper (see Section 2.2.) adequate and appropriate?

(c) Further refinement of negotiating principles as they apply to cultural and hertiage matters will likely be required as negotiations proceed.

Is it appropriate for Manitoba to take the position that we would support measures that would reduce or eliminate tariffs on cultural products and services over international borders, while firmly opposing any measures that would restrict the ability of governments at any level to provide financial and legislative support (including preferential purchasing support) designed to foster the further development of Canadian cultural and heritage industries and services?

Besides the issues raised in this paper, there may be other issues or comments regarding culture and trade that you may wish to bring to the attention of the Manitoba Government. This paper is intended to encourage that input.

If you have any comments or issues you wish to raise, you are invited to contact either Manitoba Culture, Heritage and Recreation or Manitoba Industry, Trade and Technology through either of the following:

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